

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS – EASTERN DIVISION**

<p>THERESA TRAN, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>John Doe, et al.</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 1:22-cv-06478 Honorable Joan B. Gottschall</p>
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**CLAIMANTS JOINT MOTION TO LIFT INJUNCTION AND STAY THIS
LIMITATION LIABILITY ACTION**

NOW COMES, Claimant Marija Velkova, by and through her attorneys, HORWITZ, HORWITZ, & ASSOCIATES, LTD., Claimant Lana Batochir, by and through her attorneys, CORBOY & DEMETRIO, P.C., and Claimant Jacob Houle, by and through his attorneys, ARMSTRONG LAW GROUP, (hereinafter collectively referred to as "Claimants"), and for their Joint Motion to Lift Injunction and Stay this Limitation Liability Action, state as follows:

1. On or about August 13, 2022, a vessel/boat (the "AQUAVIDA"), allegedly owned by Theresa Tran and Chicago AquaLeisure, LLC collided with an anchored boat (the "NAVIGATOR") and its raft attached thereto in the area known as the "Playpen" on Lake Michigan, within the County of Cook, State of Illinois. As a result of the allision, the NAVIGATOR was pushed forward in motion into another anchored boat (the "GIDDY UP").

2. As a result of the aforesaid occurrence, Claimants Marija Velkova, Lana Batochir, and Jacob Houle sustained injuries.

3. On or about November 14, 2022, Claimant Marija Velkova brought suit in the Circuit Court of Cook County, Illinois against the Limitation Plaintiffs Theresa Tran and

Chicago AquaLeisure, LLC, and Joseph Neverauskas, one of the captains and/or pilots and/or operators of the AQUAVIDA involved in the occurrence. *See Marija Velkova v. Joseph Neverauskas, et al.*, No. 2022-L-010139 (Cook Cty. Cir. Ct.).

4. On or about December 21, 2023, Claimant Lana Batochir brought suit in the Circuit Court of Cook County, Illinois against Theresa Tran, Chicago AquaLeisure, LLC, and Joseph Neverauskas, one of the captains and/or pilots and/or operators of the AQUAVIDA involved in the occurrence. *See Lana Batochir v. Joseph Neverauskas, et al.*, No. 2022-L-011324 (Cook Cty. Cir. Ct.)

5. Claimant Jacob Houle also intends to bring suit in the Circuit Court of Cook County, Illinois against the Limitation Plaintiffs Theresa Tran and Chicago AquaLeisure, LLC, and Joseph Neverauskas, should this Court lift its injunction enjoining him from doing so.

6. On or about November 18, 2022, Plaintiffs-in-Limitation Theresa Tran and Chicago AquaLeisure, LLC filed a Complaint in this Court seeking to limit their liability pursuant to 46 U.S.C. §§ 30501 *et seq.*, and the various statutes, rules, and regulations related thereto. *See* Compl. (Doc. No. 1).

7. In their Complaint, Plaintiffs-in-Limitation Theresa Tran and Chicago AquaLeisure, LLC allege that at all relevant times, they were the owners and/or *pro hac vice* owners of the AQUAVIDA. *See* Compl. ¶¶ 2-3 (Doc. No. 1).

8. On or about November 28, 2022, the Honorable Joan B. Gottschall entered an Order Restraining All Suits and Directing Monition to Issue, which stayed and restrained the institution and prosecution of any suits, actions, or legal proceedings of any nature whatsoever, against the Petitioners Theresa Tran and Chicago AquaLeisure, LLC or the AQUAVIDA in

respect to any claim arising out of or connected with the occurrence, except in this proceeding. *See* 11/28/22 Order (Doc. No. 11).

9. Thereafter, Claimants Marija Velkova, Lana Batochir, and Jacob Houle each filed an Answer, Affirmative Defenses, and Claim in this proceeding. *See* Claimant MJ Ans. (Doc. No. 20); Claimant MJ Claim (Doc. No. 19); Claimant LB Ans. (Doc. No. 17); Claimant LB Claim (Doc. No. 16); Claimant JH Ans. (Doc. No. 28); Claimant JH Claim (Doc. No. 29).

10. Claimants Marija Velkova, Lana Batochir, and Jacob Houle are the only persons to file claims in this matter, and this Court previously granted Limitation Plaintiffs request for entry of an order of default against non-appearing claimants on February 14, 2023.

11. The Claimants Marija Velkova, Lana Batochir, and Jacob Houle each desire to litigate their claims in the respective state court of Illinois in which they filed their aforementioned actions or otherwise plan to file such actions.

12. In support this motion, Claimants Marija Velkova, Lana Batochir, and Jacob Houle propose certain concessions, also commonly referred to as Stipulations, attached hereto as Exhibit A, which are sufficient—as a matter of law—to preserve the Limitation Plaintiffs rights under the Limitation Act. *See In re Illinois Marine Towing*, 498 F.3d 645, 652 (7th Cir. 2007).

13. In support of this motion, Claimants Marija Velkova, Lana Batochir, and Jacob Houle rely on their Joint Memorandum In Support of Motion to Lift Injunction and Stay this Limitation Liability Action, which is filed simultaneously with this motion and which is incorporated herein by reference.

14. Accordingly, this Court should grant Claimants Joint Motion and (1) modify and lift its prior injunction, find the proposed concessions adequately preserve the rights of the Limitation Plaintiffs to seek limitation of liability as alleged owner(s)/owner(s) *pro hac* vice of

the AQUADVIDA, direct Claimants to file executed concessions that adequately preserve the rights of the Limitation Plaintiffs to seek limitation of liability as the alleged owner(s)/owner(s) *pro hac vice* of the AQUAVIDA, and upon filing the executed concessions, permit Claimants to proceed with their respective state court actions, and (2) stay this Limitation of Liability action during the pendency of the other proceedings.

WHEREFORE, the Claimants respectfully request that this Honorable Court enter an Order:

- (1) Granting Claimants' Joint Motion to Lift Injunction and Stay this Limitation Action;
- (2) Directing Claimants to file an executed concessions/stipulations with the Court that it deems adequately preserve the Limitation Plaintiffs rights under the Act;
- (3) Lifting its injunction and permitting Claimants to proceed with their pending or intended state court actions upon this Court's receipt of the executed concessions/stipulations;
- (4) Staying the Limitation Action upon this Court's receipt of the executed concessions/stipulations;
- (5) Requiring the parties to update this Court as to the status of this matter every six (6) months until it is fully resolved.
- (6) Providing for any further and additional relief that this Court deems fair and just.

Dated: March 8, 2023

Respectfully submitted,

/s/ Clifford W. Horwitz

One of the Attorneys for Claimant Marija Velkova

/s/ Michael D. Ditore

One of the Attorneys for Claimant Lana Batochir

/s/ Gregory C. Armstrong

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